

Message Text

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TO AMEMBASSY PARIS IMMEDIATE
AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: EAIR, FR, EN

SUBJECT: JUDGE POLLACK CONCORDE DECISION

1. IN 40-PAGE DECISION HANDED DOWN AUGUST 17 JUDGE POLLACK CONCLUDES THAT CONTINUED DELAY OF PORT AUTHORITY IN REACHING DECISION ON CONCORDE ACCESS AT KENNEDY "HAS BEEN EXCESSIVE AND UNJUSTIFIED AND THAT THE BAN IS DISCRIMINATORY ARBITRARY AND UNREASONABLE", AND THAT THE PLANE HAS THEREBY BEEN DEPRIVED OF OPPORTUNITY TO SHOW THAT IT IS ENVIRONMENTALLY ACCEPTABLE AT JFK.

2. DECISION GOES INTO LENGTHY REVIEW OF CONCORDE CASE AND DATA THAT HAS BEEN DEVELOPED ON ITS PERFORMANCE AT VARIOUS AIRPORTS OVER THE PAST SEVERAL YEARS. POLLACK REVIEWS IN DETAIL PORT AUTHORITY ACTIONS FROM 1958 SETTING OF PRESENT JFK 112 PNDB NOISE REGULATION TO PRESENT INCLUDING FINDINGS OF PSYCHOACOUSTIC SPECIALISTS HIRED BY PORT AUTHORITY TO ASSESS IMPACT OF CONCORDE AND RESEARCH DONE ON LOW FREQUENCY VIBRATIONS. HE
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CONCLUDES THAT PORT AUTHORITY HAS BEEN "REPLOUGHING OLD GROUND AND DOING REVIEWS OF SCIENTIFIC AND THEORETICAL DATA PREVIOUSLY AVAILABLE." POLLACK NOTES THAT PORT

AUTHORITY HAS ACKNOWLEDGED THAT CONCORDE COULD COMPLY WITH CURRENT PORT AUTHORITY NOISE REGULATION.

3. POLLACK SUMS UP WITH FOLLOWING:

"THE CONCLUSION IS INESCAPABLE FROM THE EVIDENCE PRESENTED TO THE COURT AND THE COURT FINDS THAT THE P.A. HAS NO INTENTION OF TAKING THE RESPONSIBILITY OF SETTING THE PRESENT OR ANOTHER NOISE STANDARD APPLICABLE TO THE CONCORDE. ITS FAILURE AND EXCESSIVE DELAY IN DOING SO ARE UNREASONABLE, DISCRIMINATORY AND UNFAIR AND AN IMPINGEMENT ON COMMERCE AND ON THE NATIONAL AND INTERNATIONAL INTERESTS OF THE UNITED STATES."

4. FINALLY JUDGE RULES THAT PORT AUTHORITY RESOLUTIONS OF MARCH 11, 1976 AND JULY 7, 1977 ARE UNLAWFUL AND GRANTS INJUNCTION TO PLAINTIFFS (BRITISH AIRWAYS AND AIR FRANCE) ENJOINING PORT AUTHORITY FROM FURTHER INTERFERENCE WITH FLIGHTS AT JFK UNDER TERMS OF COLEMAN DECISION.

5. IN SEPARATE STATEMENT, JUDGE POLLACK HAS INDICATED THAT HIS DECISION IS TO BECOME EFFECTIVE IN TEN DAYS TIME.

6. COPIES OF DECISION BEING POUCHED. VANCE

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